

LOW, BALL & LYNCH ATTORNEYS AT LAW
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August 28, 2008

United States Magistrate Judge
Elizabeth D. Laporte
450 Golden Gate Avenue, 16th Floor
San Francisco, CA 94102

Re: David Davis and Page Gearhart-Davis v. Clearlake Police Department
U.S.D.C./Northern District Case No. C-07-03365 EDL

Dear Judge Laporte:

As you requested at the August 12, 2008 hearing of defendant City of Clearlake's motion for summary judgment in the above-referenced matter, we discussed the City's objections to plaintiffs David Davis and Page Gearhart-Davis' evidence with the Davises immediately following the hearing. Based on that discussion, we forwarded the enclosed letter to the Davises on August 13, 2008.

In that letter, we offered to stipulate to the withdrawal of our objections to the proffered evidence from the California Department of Motor Vehicles (DMV) under the conditions outlined in the letter. We also invited the Davises to provide us with copies of exhibits that were not attached to their opposition, as well as with any information that they believed would support the admissibility of their proffered evidence. As of the date of this letter, we have received no response from the Davises.

Accordingly, we respectfully request that the Court issue an order sustaining the City's objections to the Davises' evidence introduced in opposition to the City's motion for summary judgment, with the following exceptions:

1. With respect to Objection No. 5, we withdraw our objection to the authenticity of the interim driver's license for purposes of our motion, but continue to maintain that the license does not constitute valid photo identification, as indicated on the face of the document;

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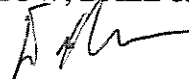
United States Magistrate Judge
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2. With respect to Objection No. 6, we withdraw our objection to the authenticity of the DMV report for purposes of our motion, but retain our objection to the extent that the report is asserted to demonstrate the validity of Ms. Davis' driver's license at the relevant time, as such validity does not appear on the face of the document, and such assertion lacks foundation and is based on hearsay statements.

Thank you for your kind attention and consideration.

Very truly yours,

LOW, BALL & LYNCH



Dirk D. Larsen

DDL/smg
Enclosure

cc: David Davis and Page Gearhart-Davis

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August 13, 2008

Mr. David Davis and
Ms. Page Gearhart-Davis
P.O. Box 3225
Clearlake, CA 95422

Re: Davis v. Clear Lake Police Department
U.S. District Court/Northern District, Case No. C 07-03365 EDL

Dear Mr. Davis and Ms. Gearhart-Davis:

This letter follows up on our August 12, 2008 discussion regarding the City of Clearlake's objections to evidence you introduced in opposition to the City's motion for summary judgment.

We are prepared to withdraw our objections to the following two items for the purposes of the summary-judgment motion only, under the conditions specified below, but preserve the objections in their entirety for any future proceedings, including trial:

- (1) Objection No. 5, which challenges the introduction of the interim driver's license of David Davis, your Exhibit No. 14. We will stipulate to the authenticity of this exhibit, i.e., that it is a true and correct copy of the interim driver's license issued by the California Department of Motor Vehicles (DMV) without a photograph. We do not stipulate that this interim driver's license constitutes valid photo identification in the absence of a photograph as contained on a permanent driver's license.
- (2) Objection No. 6, which challenges the introduction of the DMV Information Request for Page Gearhart-Davis, your Exhibit No. 19. We will stipulate to the authenticity of this exhibit, i.e., that it is a true and correct copy of a report issued by the DMV at your request. However, as we discussed on August 12, 2008, we are unable to determine that this report establishes the validity of Ms. Davis's driver's license because you are asking us to accept as true the explanation given to you by the DMV to the effect that the license was reinstated on November 18, 2005. This is hearsay. We therefore cannot stipulate to that proposition, and your

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February 22, 2008

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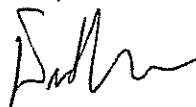
representations in support of it rely on hearsay statements and are based on insufficient personal knowledge to establish a proper foundation.

We did not discuss the City's objections numbered 2, 3 and 10, to your exhibits 8, 9 and 26, respectively, in our August 12, 2008 meeting. The basis for these objections was that you failed to provide the exhibits with your opposition papers, thus precluding the City from responding to evidence offered against it in violation of its due-process rights. I therefore invite you to enclose copies of these exhibits in your response to this letter so that we may determine whether a basis exists to withdraw the City's objections, or whether different grounds for objection may exist.

As we discussed, please respond by letter to the points raised in this letter, and please feel free to include any information or documents that you believe may support the admissibility of the evidence you seek to introduce. We can then submit this letter and your response to the court. Thank you in advance for your cooperation.

Very truly yours,

LOW, BALL & LYNCH



Dirk D. Larsen

DDL/III